



City of Granite City

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November 15, 1996

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Mr. Sean Mulroney
Asst. Regional Counsel
U.S. Environmental Protection Agency
Region V
77 W. Jackson Blvd.
Chicago, IL 60604-3950

Brian E. Konzen
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Re: U.S. vs. NL Industries et al and City of Granite
City
Docket 91 CV 00578-JLF

D. Scott Griffith
Assistant City Attorney
1522 Pontoon Rd.
Granite City, IL 62040
(618) 451-9383

Dear Mr. Mulroney:

I am in receipt of your correspondence dated November 6, 1996, received November 12, 1996. At the outset, I should note that even though the correspondence indicates it was mailed to me by certified mail and by facsimile transmission, that I only received the correspondence by regular mail.

As I understand your correspondence, the U.S. EPA intends to come on to City property, that is, the City right-of-way, and to clean-up that right-of-way where the adjacent residential property owner has granted the U.S. EPA access to clean-up that individual's property. The U.S. EPA should understand that no property owner has the right to grant permission to the U.S. EPA to come on to City property, and the City views any attempt on the U.S. EPA's part to remediate soil on City property to be an act of trespass and a breach of the peace.

You have cited Sections 104 and 106 of CERCLA as the basis for the U.S. EPA's authority to address hazardous substances, including lead at the NL Site. My review of those sections indicates that the U.S. EPA, upon being denied access, is obligated to seek an order of the court. I am not aware of the existence of any court order that allows U.S. EPA, its contractors, agents or employees, to come on to City property and undertake the remediation efforts as described. If I am mistaken, please provide me the authority upon which you rely.

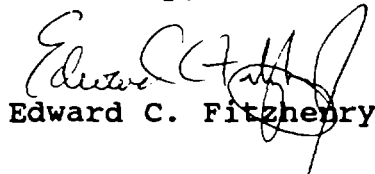


Further, if it is your contention that the City's permission is not required, why was it sought in the first instance?

You indicate that I have not provided U.S. EPA with any explanation as to why the City refuses to allow it to remediate the right-of-ways. That is an inaccurate statement. The City has steadfastly maintained that the U.S. EPA's ROD and residential soil remediation strategy is illegal, arbitrary and capricious, and will not serve to enhance the health of the citizens in Granite City. This position has been repeated in my responses to you and Mr. Jack Grady, and in the recent pleadings seeking injunctive relief. Finally, what data or information supports your contention that the City right-of-way contains any hazardous substances - none is noted in your correspondence.

I am willing to discuss the above, and any other matters with you, should the U.S. EPA be so inclined.

Sincerely,



Edward C. Fitzhenry

ECF/alb

cc: Mayor Ronald Selph
Alderman Craig Tarpoff

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